



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

CITY OF SEATTLE DETERMINATION OF NON-SIGNIFICANCE BY THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Applicant Name: Office of Policy and Management, City of Seattle

Address of Proposal: 301 NE Northgate Way

SUMMARY OF PROPOSED ACTION

The proposal is to approve the Northgate Mall Development Agreement.

The following approvals are required:

City Council Action.

SEPA - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading, or demolition,
 or involving another agency with jurisdiction.

BACKGROUND DATA

Background and Proposal Description

The proposal is for adoption of an ordinance that would approve the Northgate Mall Development Agreement pursuant to RCW 36.70B.170 (et seq.). The Development Agreement restricts uses and the amount of development and provides vesting rights to certain current regulations for a period of 10 to 15 years. The Agreement also reserves stormwater treatment capacity for Simon Properties in the event a Northgate Stormwater Facility is constructed.

Simon agrees to transfer ownership of approximately 2.7 acres of land to the City on the west side of 5th Avenue NE between NE 103rd Street and NE 100th Street. The Agreement requires Simon Properties to construct improvements to the 5th Avenue entrance to the Northgate Mall and requires the City and Simon to coordinate design work on the 5th Avenue Streetscape.

Approval of a development agreement is not a land use regulatory approval required by the City's Land Use Code. Accordingly, the proposed development agreement does not constitute land use regulatory approval of Simon's proposed development; all development contemplated in the development agreement is subject to all regulatory approvals that otherwise apply, including the potential need for approval of a General Development Plan, unless that requirement is repealed or amended.

Public Comments

A public hearing on the proposed development agreement is required by RCW 36.70B.200. Also, proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments during future Council hearings.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist dated April 1, 2003. The information in the checklist, a copy of the Development Agreement, and the experience of the lead agency with review of rezones and similar actions form the basis for this analysis and decision.

The Development Agreement proposed between the City of Seattle and the Simon Property Group, owners of the Northgate Mall, contains several sections. Potential impacts of the principal sections are discussed below.

Relationship to Simon's Approved General Development Plan: The General Development Plan (GDP), approved by both the City and by the Washington State Court of Appeals, provides an opportunity for Simon Property to develop in accordance with that GDP. Under the terms of the Development Agreement, the vested rights conferred by the Agreement would supercede all vested rights obtained pursuant to approval of the General Development Plan (GDP). With respect to SEPA, vesting only establishes the regulations that will apply to potential development and does not identify the environmental impacts that are likely to occur when those regulations are applied to a particular development project. That future development will be reviewed under SEPA when the developer applies for MUP approvals.

Relationship to Development Otherwise Permitted: The terms of the Development Agreement establish that proposed development within the west and southeast sectors of the North Lot (site of the Mall) and Parcels A and B of the South lot must comply with the Agreement. Within the northeast sector, only a potential future parking garage would be subject to the Agreement. Establishing the areas to which the Development Agreement applies does not have

environmental impacts; impacts of specific development pursuant to this Agreement will be evaluated when permit applications are submitted at the individual project stage.

Proposed Development: The Development Agreement addresses potential development on the North Lot of a maximum of 165,500 square feet, which is less than that allowed by existing zoning. Exhibit One indicates the proposed location of the new development on the west and southeast sectors. However, the Agreement does not bind Simon Property to these specific locations, and future development of the 165,600 square feet could occur at other locations within the west or southeast sectors. The Development Agreement also limits the size of a potential parking garage to a maximum of 920 spaces; this structure could be located anywhere on the North Lot where it is allowed by current zoning.

The Development Agreement restricts potential uses on the South Lot, Parcel A; the list of prohibited uses includes such activities as general manufacturing, drive-in businesses, and vehicle repair. The Agreement also states that nonresidential uses on the South Lot, Parcel A, “must be of types and densities that are supportive of transit oriented development,” and requires development of at least 150 housing units on this parcel when development is proposed. The Agreement also notes the potential opportunity for Simon Property, King County, and the City of Seattle to coordinate planning for future development on the South Lot, and commits Simon (or its successor) to doing so.

All the potential development outlined above will be required to obtain development permits when specific projects are proposed, including Master Use Permits, building permits, and other applicable regulatory permits. SEPA analysis will be conducted on individual project MUPs at the time of permit application. As the Development Agreement states, “approval of the development described in Subsections 6.1, 6.2, and 6.3 is subject to the compliance with all applicable City requirements including, but not limited to, Master Use Permits (MUP), SMC 23.76 and the Washington State Environmental Policy Act Requirements (SEPA), SMC 25.05”. The Development Agreement does not relieve future applicants for specific projects from complying with relevant codes and regulations, although it does vest those projects to development standards in place on the effective date of the ordinance (see below). Development potential on the North Lot is not increased through the terms of this Agreement. No adverse environmental impacts are anticipated from approving a Development Agreement that does not increase development potential, establishes vested rights, and restricts the general location of uses on the North Lot of the Mall site.

Non-residential development on the South Lot also will be limited by the Development Agreement, which emphasizes transit-oriented development and prohibits certain auto-oriented uses. Although particular impacts of specific projects will be assessed through SEPA at the time of project review, this focus on transit-oriented development is not likely to have adverse impacts, and may have fewer or less-intense impacts than development otherwise permitted on this parcel due to restrictions on certain auto-oriented uses. Similarly, the impacts of a minimum of 150 housing units on the South Lot, Parcel A, will be assessed if and when such development is proposed; this level of development is less than that permitted outright under existing zoning and development standards, so no adverse impacts are anticipated from the establishment of this level of housing as a required component of future development on this site.

The City's Duties: The Mayor is proposing the construction of a stormwater detention and treatment facility on the eastern portion of the South Lot. The potential SEPA impacts of such a facility will be addressed in phases if the facility progresses through planning and project-level development. Through this Development Agreement, the City agrees to reserve an amount of detention and treatment capacity in this facility for Simon Property, to help meet drainage requirements from proposed development. Simon is not obligated to utilize the detention and treatment facility; however, future development on the Mall site (including but not limited to that described in the Development Agreement) will be required to meet detention and treatment requirements as specified in SMC 22.802 (the City's Stormwater, Drainage, and Erosion Control Ordinance). The Development Agreement does not change these code requirements; rather, it provides Simon an alternate means of satisfying these requirements. Because the Agreement merely promises to reserve detention capacity for Simon, and does not change detention and treatment standards, the Agreement will not result in an adverse environmental impact. Specific project impacts, including drainage, will be reviewed at the time of individual project applications for proposed development on the Mall site.

The City also agrees to prohibit certain uses on the eastern portion of the South Lot, if any development occurs on this parcel other than the stormwater detention and treatment facility. As with the restricted uses on the other portion of the South Lot (see above), these prohibited uses include general manufacturing, drive-in businesses, vehicle repair, and various other uses. Any project-specific development on this site will be evaluated for environmental impacts at the time of project application. However, it is unlikely that restricting otherwise permitted uses on this site will have an adverse impact; to the extent that resulting development is less auto-oriented, it may have somewhat fewer or less intense impacts than development that might otherwise occur.

Simon's Duties: Under the terms of the Development Agreement, Simon Property will:

- execute a purchase and sale agreement to convey a portion of the South Lot (Parcel B) to the City of Seattle;
- design and construct "a visually attractive entry to the Mall from 5th Avenue that emphasizes the pedestrian connections between the new library and community center and the Mall's 5th Avenue entrance". The Agreement provides a conceptual illustration of this entryway, and specifies design features;
- work jointly with the City to coordinate site design work of the City's 5th Avenue Streetscape Improvements Project and Simon's 5th Avenue Entrance, and participate in the planning for the library and community center being developed on the east side of 5th Avenue.

The purchase and sale agreement is a real estate transaction and, as such, is exempt from SEPA (SMC 25.05.800 E). The modifications to the 5th Avenue entryway described in the Agreement are intended to result in enhanced pedestrian connections and urban design between the east entrance to the Mall (near the Bon Marche) and the public right-of-way. The modifications will not change vehicular capacity of the driveway, and are not expected to alter traffic circulation patterns. The proposed design will result in a reduction of parking supply of approximately 16 stalls, as identified in Figure 4; this minor loss of parking capacity represents less than 0.5% of the existing parking supply on the North Lot, and should not be noticeable to parking lot users.

The proposed new lights added along the modified entrance as shown in Exhibit 4 of the Development Agreement are consistent with existing lighting in the area, and are well below Land Use Code height limits for lighting in commercial zones; they are not expected to produce adverse impacts. Some impacts may result from construction of the entranceway modifications, but these will be transient and relatively minor; construction traffic will access directly onto an arterial (5th Avenue NE), and the site provide ample spaces for any necessary construction worker parking. The Noise Ordinance is expected to satisfactorily address any potential construction-related noise impacts. Overall, the minor modifications to the Mall's 5th Avenue entryway will have no significant adverse environmental impacts.

Vesting of Development Standards: The Development Agreement vests the proposed development to the regulations specified in the Development Agreement that are in place on the effective date of the ordinance approving the Agreement. The duration of vested rights is ten years; this may be extended an additional five years if, by the end of the tenth year, certain levels of development have been achieved. The maximum length of time for vesting under this Development Agreement is 15 years. The vesting provision ensures that future projects consistent with the Agreement can develop to current standards, including Land Use Code development standards, but does not alter those standards or allow development not otherwise permitted under current standards. Since development under this Agreement would not be any greater or more intense than development currently allowed on the property, the vesting provision will have no environmental impacts. Individual projects proposed under the Development Agreement will be reviewed for environmental impacts at the time of project application.

The Development Agreement contains a condition precedent to Simon's duty to perform under the terms of the Agreement: the adoption of various Land Use Code amendments by the City. As a separate SEPA analysis and threshold determination is proceeding for these proposed Code amendments, the potential impacts of these Code changes are not addressed here.

Conclusion

Except at the 5th Avenue entryway, the Development Agreement does not specify development that will take place on the Northgate Mall site; instead, it establishes a framework for and restrictions on potential development that may occur on the North or South lots. The Agreement vests the potential development to the development standards in place at the time the Agreement is approved. It also reserves an amount of stormwater detention and treatment capacity for Simon Property if such a facility is constructed on the South Lot and Simon chooses to use this capacity to comply with stormwater code requirements. Individual projects proposed under the Agreement will be reviewed for environmental impacts at the time of project application. Under the terms of the Development Agreement, Simon Property will make minor modifications to the Mall's 5th Avenue entryway; these will have only slight and largely transient environmental impacts. Overall, the Development Agreement will not result in significant adverse impacts to the environment.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

☒ [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

☐ [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

RECOMMENDED CONDITIONS – SEPA

None.

Signature: (signature on file) Date: May 22, 2003
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